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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,648	12/30/2003	Eugenio Go Varona	17986	6897

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KIMBERLY-CLARK WORLDWIDE, INC.  
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EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/748,648

Applicant(s)

VARONA ET AL.

Examiner

Lynda M. Salvatore

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 05/10/04.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Objections*

1. Claim 5 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 12 and 14 recite the limitation " the third layer" in line 1. There is insufficient antecedent basis for this limitation in the claim. For purposes of examination these claims will be treated as if they depend from claims 11 and/or 13.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-10, 17 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Annable US 2002/0134493 in view of Lampila et al., EP 1 091 035 A1.

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art only under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 103(a) might be overcome by: (1) a showing under 37

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CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not an invention “by another”; (2) a showing of a date of invention for the claimed subject matter of the application which corresponds to subject matter disclosed but not claimed in the reference, prior to the effective U.S. filing date of the reference under 37 CFR 1.131; or (3) an oath or declaration under 37 CFR 1.130 stating that the application and reference are currently owned by the same party and that the inventor named in the application is the prior inventor under 35 U.S.C. 104, together with a terminal disclaimer in accordance with 37 CFR 1.321(c). For applications filed on or after November 29, 1999, this rejection might also be overcome by showing that the subject matter of the reference and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person. See MPEP § 706.02(l)(1) and § 706.02(l)(2).

The <sup>reference 1</sup>~~patent issued~~ to Annable teaches a microcreped wiper comprising a microcreped non-woven web comprising crimped fibers (Abstract and Section 0030). Annable teaches that the non-woven web maybe formed by such processes including meltblowing, spunbonding or carding (Section 0025). Said microcreped non-woven may also be a single or multi-layer meltblown or coform web (Section 0039). With regard to the diameter of the fibers, Annable teaches a diameter ranging from .5-50 micrometers (Section 0023). With regard to the second layer, Annable teaches a second layer formed from a meltblown, spunbond, coform, or carded material (Section 0039). With regard to the fluid limitations, Annable teaches adding a surfactant to form a commercially available wiping product (Section 0052 and 0054).

Annable fails to teach a first layer having a pore radius greater than 100 microns, however, the published European application issued to Lampila et al., teaches a microcreped non-woven having a pore size greater than 100 microns (Section 0016 and 0019). Lampila et al., teaches that the microcreping process improves the bulk or thickness of the non-woven to provide cloth like properties (Section 0015). In addition, due to the crimped fibers present in the non-woven, the microcreping process also provides improved liquid distribution, drying properties and absorption rates (Section 0022).

Therefore, motivated by the desire to provide a wiper having improved liquid distribution, drying properties and absorption rates it would have been obvious to one having ordinary skill in the art at the time the invention was made to crepe the non-woven web taught by Annable such that the pore size is greater than 100 microns as taught by Lampila et al.

With regard to the second layer pore size limitations; recall Annable teaches providing a multi-layer creped non-woven web. As such, it is the position of the Examiner that since the microcreping process taught by Lampila et al., teaches producing pore sizes ranging from less than 70 microns to greater than 100 microns the pore size limitations of the non-woven laminate having first and second layers would inherently be met. For example, Lampila et al., teaches a non-woven with a pore size distribution of at least 30% having a radius greater than 100 microns and at least 5% having a radius less than 70 microns. In the instant case, employing the microcreping method of Lampila et al., to the multi-layer non-woven laminate of Annable would meet the limitations of providing a first non-woven layer having a pore size greater than 100 microns and a second non-woven layer having a pore size of less than 100 microns.

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6. Claims 11-16, 18-20,22 and 23 are rejected under 35 U.S.C. 103(a) as being obvious over Annable US 2002/0134493 in view of Lampila et al., EP 1 091 035 A1 as applied to claim 1 above and further in view of Clark et al., US 6,723,669.

The combination of prior art does not specifically teach a three layer laminate structure however, three layer wiper laminates are known in the art. For example, the patent issued to Clark et al., teaches a spun-bond/meltblown/spun-bond laminate suitable for use as a wiper (Abstract and Column 15, 50-55). In addition, Clark et al., teaches that the three layer laminate may comprise crimped fibers and can be combined with one or more meltblown webs to create a filtration gradient (Column 14, 55-Column 15, 1). Specifically, Clark et al., teaches providing a meltblown web having higher loft and an average pore size greater than the other meltblown webs. Clark et al., teaches improved filter life (Column 15, 1-6).

Therefore, motivated by the desire to provide a three layer wiper having improved filtration, it would have been obvious to one having ordinary skill in the art to provide the non-woven laminate taught by the combination of Annable in view of Lampila et al., with another microcreped spunbond non-woven layer as taught by Clark et al.

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482. The examiner can normally be reached on M-F.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

April 16, 2005

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